1	EDMUND G. BROWN JR., Attorney General			
2	of the State of California ARTHUR D. TAGGART			
3	Supervising Deputy Attorney General GEOFFREY S. ALLEN, State Bar No. 193338			
4	Deputy Attorney General California Department of Justice			
5	1300 I Street, Suite 125 P.O. Box 944255 Sacramento, CA 94244-2550			
6	Facsimile: (916) 324-5567			
7	Attorneys for Complainant			
8	Anomeys for complament			
9	BEFORE THE BOARD OF REGISTERED NURSING			
10	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA			
11		Case No. 2008 -205		
12	In the Matter of the Accusation Against:	Case No. 200		
13	MA TERESA SAGARAL ACOSTA, a.k.a. MA TERESA S. ACOSTA,	ACCUSATION		
14	a.k.a. MA TERESA ACOSTA 6085 N. Summercreek Court			
15	Fresno, CA 93722			
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17		Respondent.		
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19	DADTIE	Complainant alleges:		
20	D II A Town MDH DN	PARTIES  ACQUISATION  ACQUISATION		
21	1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation			
22	solely in her official capacity as the Executive Officer of the Board of Registered Nursing			
23	("Board"), Department of Consumer Affairs.  2. On or about May 29, 1997, the Board issued Registered Nurse License			
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2:	Number 532554 to Ma Teresa Sagaral Acosta, also known as Ma Teresa S. Acosta and Ma  Teresa Acosta ("Respondent"). Respondent's registered nurse license was in full force and effect			
20	at all times relevant to the charges brought herein and will expire on November 30, 2008, unless			
2				
2	B renewed.			

# **STATUTORY PROVISIONS**

	3.	Business and Professions Code ("Code") section 2750 provides, in
pertinent part,	that the	Board may discipline any licensee, including a licensee holding a
temporary or	an inacti	ve license, for any reason provided in Article 3 (commencing with section
2750) of the N	Jursing I	Practice Act.

- 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.
  - 5. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- (a) Unprofessional conduct, which includes, but is not limited to, the following:
- (1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions. . .
  - 6. California Code of Regulations, title 16, section ("Regulation") 1442

states:

As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life.

7. Regulation 1443 states:

As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5.

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#### COST RECOVERY

8. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

### FIRST CAUSE FOR DISCIPLINE

# (Gross Negligence)

- 9. At all times herein mentioned, Respondent was employed as a registered nurse in the High-Risk Antepartum Unit ("HRAU")<sup>1</sup> of Community Medical Center ("CMC") in Fresno, California. Respondent was on duty from 1852 hours on March 8, 2005, through 0755 hours on March 9, 2005, and from 1855 hours on March 9, 2005, through 0534 hours on March 10, 2005.
- 10. On or about March 6, 2005, Patient A, 43 years of age, was admitted to the HRAU at approximately 29 weeks gestation with spontaneous rupture of the amniotic membranes. The patient's past medical history included risk factors of two previous c-section deliveries, one previous preterm delivery of an infant with hydrocephalous, and having suffered seizures during her last delivery.
- Respondent is subject to disciplinary action pursuant to Code section 11. 2761, subdivision (a)(1), on the grounds of unprofessional conduct, in that on or about March 9, 2005, while on duty as a registered nurse in the HRAU of CMC, Respondent was guilty of gross negligence, within the meaning of Regulation 1442, as follows:
- Respondent failed to perform the required hourly checks on her high-risk patient, Patient A<sup>2</sup>/.
- b. Respondent failed to communicate her difficulty in prioritizing care for four high-risk patients.

<sup>1.</sup> The HRAU at CMC is responsible for the care of patients with high-risk pregnancies.

<sup>2.</sup> The performance of hourly assessments was mandated by CMC for patients in the HRAU.

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### SECOND CAUSE FOR DISCIPLINE

### (Incompetence)

- 12. Complainant incorporates by reference as though fully set forth herein the allegations contained in paragraphs 9 and 10 above.
- 13. Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (a)(1), on the grounds of unprofessional conduct. On or about March 9, 2005, while on duty as a registered nurse in the HRAU at CMC, Respondent was guilty of incompetence, within the meaning of Regulation 1443, as follows:
- a. Respondent failed to communicate her difficulty in prioritizing care for four high-risk patients.
- b. Respondent failed, the previous shift, to notice and report a potentially significant event on the external fetal monitoring strip for Patient A.

# THIRD CAUSE FOR DISCIPLINE

# (Unprofessional Conduct)

14. Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (a), in that on or about March 9, 2005, while on duty as a registered nurse in the HRAU at CMC, Respondent committed acts constituting unprofessional conduct, as set forth in paragraphs 11 and 13 above.

#### **PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 1. Revoking or suspending Registered Nurse License Number 532554, issued to Ma Teresa Sagaral Acosta, also known as Ma Teresa S. Acosta and Ma Teresa Acosta;
- 2. Ordering Ma Teresa Sagaral Acosta, also known as Ma Teresa S. Acosta and Ma Teresa Acosta, to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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1	3. Taking such other and further action as deemed necessary and proper.
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3	DATED: 1/408
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5	M. I Hochberg for
6	RUTH ANN TERRY M.P.H., R.N. Executive Officer
7	Board of Registered Nursing Department of Consumer Affairs State of California
8	State of California Complainant
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Acosta, Ma Teresa Sagaral.acc clp; 10/10/07